

**Texas Department of Insurance, Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION****PART I: GENERAL INFORMATION**

Requestor's Name and Address:  MONSOUR MEDICAL CENTER 70 LINCOLN HWY E JEANNETTE PA 15644-3141	MFDR Tracking #: M4-05-B053-01
Respondent Name and Box #:  Facility Insurance Corp. Box #: 19	

**PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION****Requestor's Position Summary:** "Reimbursement"**Principle Documentation:**

1. DWC 60 Package
2. Total Amount Sought - \$797.00
3. Hospital Bill
4. EOB
5. Medical Records

**PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION****Respondent's Position Summary:** "The carrier asserts that it has paid according to applicable fee guidelines and/or reduced to fair and reasonable. Further, the carrier challenges whether the charges are consistent with applicable fee guidelines. All reductions of the disputed charges were made appropriately."**Principle Documentation:**

1. Response to DWC 60

**PART IV: SUMMARY OF FINDINGS**

Date(s) of Service	Denial Code(s)	Disputed Service	Amount in Dispute	Amount Due
10/25/2004	39	Outpatient Surgery	\$727.00	\$0.00
Total Due:				\$0.00

**PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION**

Texas Labor Code §413.011(a-d), titled *Reimbursement Policies and Guidelines*, and Division rule at 28 Texas Administrative Code §134.1, titled *Use of the Fee Guidelines*, effective May 16, 2002 set out the reimbursement guidelines.

1. For the services involved in this dispute, the respondent denied payment with reason code 39 – "Payment denied/reduced for absence of, or exceeded, pre-certification/authorization."
2. This dispute relates to outpatient surgery services provided in a hospital setting with reimbursement subject to the provisions of Division Rule at 28 TAC §134.1, 27 TexReg 4047 (May 10, 2002) which requires that "reimbursement for services not identified in an established fee guideline shall be reimbursed at fair and reasonable rates"...
3. Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.

4. Division rule at 28 TAC §133.307(g)(3)(A), effective January 1, 2003, 27 TexReg 12282; and applicable to disputes filed on or after January 1, 2003 requires the requestor to send additional documentation relevant to the fee dispute including “documentation of the request for and response to reconsideration (when a provider is requesting dispute resolution on a carrier reduction or denial of a medical bill) or, if the carrier failed to respond to the request for reconsideration, convincing evidence of the carrier’s receipt of that request” The request for medical fee dispute resolution was received by the Division on August 1, 2005. Pursuant to §133.307(g)(3), the Division notified the requestor on August 9, 2005 to send the additional required documentation. No additional information was received from the requestor. Review of the submitted evidence finds that the requestor has not provided documentation of the insurance carrier’s response to the request for reconsideration or convincing evidence of the carrier’s receipt of that request. The Division concludes that the requestor has not provided documentation sufficient to meet the requirements of Division rule at 28 TAC §133.307(g)(3)(A).
5. Additionally, Division rule at 28 TAC §133.304(m) effective July 15, 2000, 25 TexReg 2115, states that “The sender of a medical bill may request medical dispute resolution in accordance with §133.305 of this title if the sender has requested reconsideration in accordance with this section and: (1) after reconsideration, the sender is still dissatisfied with the insurance carrier’s action on the medical bill; or (2) the sender has not received the insurance carrier’s response to the request for reconsideration by the 28<sup>th</sup> day after the date the request for reconsideration was sent to the insurance carrier.” Review of the documentation finds that the request for reconsideration was dated “7-28-05”; however the request for medical dispute resolution was received by the division on August 1, 2005, only 4 days after the date on the request for reconsideration. Requestor did not submit evidence of the insurance carrier’s response to the request for reconsideration or of the carrier’s failure to respond to the request by the 28<sup>th</sup> day. The Division concludes that the requestor has not met the requirements of Division rule at 28 TAC §133.304(m).
6. Division rule at 28 TAC §133.307(g)(3)(C), effective January 1, 2003, 27 TexReg 12282; and applicable to disputes filed on or after January 1, 2003 requires the requestor to send additional documentation relevant to the fee dispute including “a statement of the disputed issue(s) that shall include: (i) a description of the healthcare for which payment is in dispute, (ii) the requestor’s reasoning for why the disputed fees should be paid or refunded, (iii) how the Texas Labor Code and commission [now the Division] rules, and fee guidelines, impact the disputed fee issues, and (iv) how the submitted documentation supports the requestor position for each disputed fee issue. The request for medical fee dispute resolution was received by the Division on August 1, 2005. Pursuant to §133.307(g)(3), the Division notified the requestor on August 9, 2005 to send the additional required documentation. No additional information was received from the requestor. Review of the submitted documentation finds that the requestor did not state its reasoning for why the disputed services should be paid; or how the Texas Labor Code and Division rules impact the disputed fee issues; or how the submitted documentation supports the requestor’s position for each disputed fee issue. The Division concludes that the requestor has not provided documentation sufficient to meet the requirements of Division rule at 28 TAC §133.307(g)(3)(C).
7. Division Rule at 28 TAC §133.307(g)(3)(D), effective January 2, 2002, 26 TexReg 10934; amended to be effective January 1, 2003, 27 TexReg 12282, applicable to disputes filed on or after January 1, 2003, requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement”... The request for medical fee dispute resolution was received by the Division on August 1, 2005. Thorough review of the documentation submitted by the requestor finds that the requestor has not discussed, demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute.
8. Division Rule at 28 TAC §134.600(h)(2) effective March 14, 2004, 29 TexReg 2360, requires carrier preauthorization prior to providing the health care for outpatient surgical or ambulatory surgical services. Review of the documentation finds that the requestor provided services that required preauthorization; however no evidence of preauthorization was submitted for review. The insurance carrier’s denial reason code 39 – “Payment denied/reduced for absence of, or exceeded, pre-certification/authorization.” is supported. Reimbursement cannot be recommended.
9. The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code sections §133.307(g)(3)(A), §133.307(g)(3)(C), and §133.307(g)(3)(D). Additionally, the Division concludes that the requestor has not demonstrated that it has met the requirements of §133.304(m) and therefore has not established that it is entitled to request medical fee dispute resolution. The Division further concludes that the requestor failed to meet its burden of proof to support its position that reimbursement is due. As a result, the amount ordered is \$0.00.

**PART VI: GENERAL PAYMENT POLICIES/REFERENCES**

Texas Labor Code § 413.011(a-d), § 413.031 and § 413.0311  
28 Texas Administrative Code §133.304, §133.307, §134.1, §134.600  
Texas Government Code, Chapter 2001, Subchapter G

**PART VII: DIVISION DECISION AND/OR ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Section 413.031, the Division has determined that the Requestor is not entitled to reimbursement for the services involved in this dispute.

**DECISION:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
Date

**VIII: YOUR RIGHT TO REQUEST AN APPEAL**

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division Rule 148.3(c).

Under Texas Labor Code Section 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code Section 413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**